

Market Regulation Investigation Guidelines

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Market Conduct Investigation

State insurance regulators have many different tools at their disposal to deal with issues regarding potential violations of state insurance statutes and regulations as well as market conduct issues which may arise during the conduct of business under a license. All state regulators currently conduct financial examinations of their domiciled insurers on a regular basis and many now combine that examination with a market conduct examination. Some regulators in fact conduct regularly scheduled market conduct examinations apart from the routine financial examination. Furthermore, there are occasions where state regulators find it necessary to conduct specific and/or targeted examinations of companies and/or producers due to specific allegations of misconduct or non compliance with statutes and regulations. The following information is an attempt to develop a procedure and guidelines for those instances where a market conduct investigation is warranted. At the outset, it should be noted the market conduct investigation is a separate and distinct procedure from a market conduct examination or a targeted examination.

Guidelines for Conducting Market Conduct Investigations

I. Statutory Authority

Ala. Code Section 27-2-20 gives the Commissioner the authority to conduct an investigation by examining the accounts, records, documents and transactions of any one engaging in the business of insurance if he has reason to believe such person has violated or is violating any provision of the insurance code or upon complaint by any resident of this state. Furthermore, Ala. Code Section 27-2-19(1975) allows the Commissioner to institute such actions or other proceedings as may be required for enforcement of any provision of the insurance code. The results of any such investigation may be withheld from public review pursuant to Ala. Code Section 27-2-24(1975) in departmental regulation No. 104.

II. Conduct of Investigation

The investigation may be conducted by the Department's examiners or investigators either at the offices of the Insurance Commissioner or wherever the person being investigated is located as well as at such other places as may be required for determination of matters under investigation. See Ala. Code Section 27-2-23(1975).

Every person being investigated, its officers, attorneys, employees, agents and representatives, shall make freely available to the Commissioner or his representatives the accounts, records, documents, files, information, and matters in his possession or control relating to the subject of the investigation. See Ala. Code Section 27-2-23(1975).

Neither the Department nor any examiner or investigator shall remove any record, account, document, file, or other property of the person being examined from the offices of such person except with written consent given in advance of such removal or pursuant to a court order. See Ala. Code Section 27-2-23(1975).

III. Pre-Investigation Planning

If conditions permit, internal planning should be done by the Department's examiners and/or investigators with regards to the company or individual selected for investigation. Information that

should be gathered, should conditions permit, include but is not limited to the following:

- (a) Information from internal data bases regarding the subject of the investigation.
- (b) Information concerning the subject of the investigation from the applicable NAIC data bases.
- (c) Discussions with other Department of Insurance personnel.
- (d) Any departmental records such as financial examinations and/or producer licensing and investigation files.
- (e) Information received from other states.
- (f) Any information received from law enforcement and/or other state or federal regulatory agencies.

Also, as part of the pre-investigation planning stage, the following information should address the following issues:

- (a) The scope of the investigation.
- (b) The justification for the investigation.
- (c) A time and cost estimate.
- (d) What costs, if any, can be billed to other sources.

IV. Investigative Reports

The Department's examiners and/or investigators should prepare a written report at the conclusion of each investigation. This report should combine the appropriate features of an examination report and possibly include some of the data and format of a more traditional law enforcement report, specifically if criminal violations are uncovered during the investigation. These reports are strictly confidential until such time as they have been reviewed by the Department and their distribution is either permitted by the Commissioner or required by law.

V. Enforcement Options

There are several options available to the Department once a market conduct investigation has been concluded. These options include, but are not limited to the following:

- (a) Filing of an examination report. This option gives the company the opportunity to respond and/or object to the examination report and to have a hearing concerning the same. Once the examination report becomes final it may be a public document.
- (b) Complaint. A complaint may be filed against the company or producer who is the subject or target of the investigation. As with other departmental complaints, the respondent has thirty days to

respond to the allegations and in most cases a hearing will be scheduled.

(c) Settlement Agreement and/or Consent Order. The Department has the authority to enter into Settlement Agreements and/or issue a Consent Order with regards to violations of the insurance code which are uncovered during an investigation. A Settlement Agreement may be entered into after or before the filing of an administrative complaint and the same is true for a Consent Order. It is important to remember that it is not necessary to file a formal complaint against the target of an investigation before a Settlement Agreement or Consent Order can be entered into to resolve the outstanding issues and violations.

VI. Monetary Penalty or Fine

The insurance code does provide limited fining authority for specific instances of violations of the insurance code. Specifically, as of January 1, 2002, individual producers may be fined up to \$10,000.00 for violations of certain provisions of the insurance code. Consistent with the Department's authority stated above to enter into Settlement Agreements and Consent Orders, the Department does have the authority to enter into agreements which provide reimbursement to the Department for its administrative costs in settling matters related to a market conduct investigation.

Please keep in mind the enforcement options listed above are not necessarily mutually exclusive and it may be appropriate in many cases to pursue more than one option.

Standards for Conducting a Field Investigation

The following are general guidelines to be used by examiners and investigators in conducting field investigations on behalf of the Department of Insurance:

1. Activities such as interviews, record reviews and report preparation for the investigation should be planned in advance in order to efficiently utilize departmental resources.
2. Investigators are responsible for conducting field investigation activities which identify and documents specific violations of the insurance code. Investigators should only make a recommendation on disposition after the investigation has been concluded. Appropriate disposition of the case will be determined by the Deputy Commissioner or supervisor of the investigator in consultation with the Department's Legal Division after the investigation activities have been completed. Please remember the Commissioner of Insurance ultimately decides the disposition of all cases investigated by this Department, which are referred for administrative action.
3. The investigator conducting the investigation should conduct activities and tasks directly related to substantiating the alleged violation, which were originally referred. If the investigator believes there are additional alleged violations or that the investigation should broaden its scope, the investigator should discuss this matter with their Deputy Commissioner or supervisor before proceeding further.
4. Investigators should only investigate field cases, which have been properly assigned to them and have a field file number. All investigative cases must be authorized and approved by the Deputy Commissioner who oversees the Investigators Division.
5. Investigators are responsible for planning their schedule of activities on assigned investigative cases to ensure that activities and tasks, toward the completion of the investigations, are completed on at least a monthly basis.
6. All activities, tasks and discussions occurring on an investigative case should be properly recorded in the investigative reports, such as reports of interview, etc. and should be completed within three working days from their occurrence. It is very important this rule be adhered to in all cases.
7. All materials and documents gathered as a part of an investigation shall remain part of the investigative file, regardless of whether they are used

- as evidence, and assembled in the prescribed format of an investigative file. A copy of the complete investigative file should be forwarded to the Legal Division when and if a request is made for administrative action to be taken against an entity or individual.
8. No information in an investigative file should be provided to any one outside the Department of Insurance without the expressed permission of the Legal Division and/or the agency records officer. Investigators should familiarize themselves with the confidentiality provisions of the insurance code as well as Departmental Regulation No. 104 which sets out the guidelines for sharing this information with law enforcement and other regulatory agencies. It is the policy of this Department to cooperate fully, to the extent allowed by law, with all federal and state law enforcement and regulatory agencies.

Guidelines for Conducting an Interview

- A. Prior to conducting interviews during an investigation, it should be determined beforehand whether the person being interviewed is a witness, victim, or the subject of the investigation. A written record should be made of every interview that is conducted. In most cases, notes will be taken during an interview and will later be transcribed or dictated by the investigator at a later date. It is very important that the preparation of a final report of an interview be done as soon as possible after the interview has taken place. Most law enforcement agencies require this to be done within five days of the date of the interview. It is up to the individual investigator to determine whether or not his or her original notes should be maintained after the interview has been formally transcribed. That being said, once a specific policy has been adopted regarding this issue, it should not be deviated from under any circumstances. It is recommended the investigator preserve his or her original notes from each and every interview and that the investigator strive to make sure those notes are as accurate as possible.
- B. Individuals who are considered to be possible subjects and/or targets of the investigation should normally be interviewed toward the end or at the conclusion of the investigative process. More often than not, individuals who are the subject or target of an investigation may in fact contact the investigator and/or the Department during the course of the investigation once they learn of its existence. Interviews conducted of individuals who are subjects/targets of an investigation should be the most thorough interviews conducted during the investigation. If at all possible, every statement and detail provided by a subject/target of an investigation should be recorded. The primary reason for this policy is that often times a subject/target will be deceptive and/or provide misleading information to the investigator and the more detail that is gathered will often be useful to the investigator in proving the deception. Furthermore, the subject/target is obviously in the best position to provide information to the investigator concerning the alleged offense. As a civil investigator, you are not required to advise a subject/target of their Miranda rights under the criminal law. However, if any individual being interviewed requests to speak to an attorney, the interview should be terminated at that point and the individual advised to consult their legal counsel.
- C. Interviews of witnesses are normally conducted differently than those of a subject/target. There are several reasons for this. The most obvious is that a witness is normally cooperative and usually possesses

less than complete knowledge of the matter being investigated. Witnesses should obviously be questioned extensively concerning their specific knowledge of the matter under investigation. It is important, however, for the investigator when making a written record of the interview to try and summarize as much as possible the information provided by the cooperative witness. By summarizing the information provided by a witness, the investigator does not put the witness into the position of possibly having their credibility attacked over confusion or a mistake over a minor detail in their statement. The investigator should always keep in mind that any and all statements obtained during an interview may in fact be used in an administrative and/or court proceeding and thus be available for review by a subject/target of an investigation or their attorney.

- D. Investigators should make it a standard practice and procedure to record interviews conducted with custodians of records and/or any other individuals they receive documentary evidence from. For example, when contacting a custodian of records at a bank to serve a subpoena for financial records, a written record in the proper form should be created documenting the identity of the person contacted, the purpose and the results of the interview even if all that was done was to deliver a request for information and information was provided. This procedure not only helps document all steps taken during the investigation but also may help with establishing the chain of custody for documentary evidence to be used during the investigation.
- E. Investigators should always use caution when interviewing either a hostile subject, witness, victim or anyone of the opposite sex. It is advisable to have another investigator present any time a hostile witness or the subject/target of the investigation is interviewed. If you are unable to have another person present, do not conduct the interview behind closed doors. It is preferred that male investigators always have another person present when they interview female subjects/targets.
- F. An investigator should at all times be courteous and professional during an interview no matter who is the subject of the interview, either a subject/target or a witness. Furthermore, investigators should never provide information or make statements to a subject/target or a witness that cannot be substantiated by the evidence the investigator already has. An investigator should never make promises to an individual and should always remember that he or she does not have the authority to resolve or settle the matter being investigated and that it is up to the department head or other higher legal authority to

determine when and how the matter will be resolved. This does not mean that an investigator cannot tell a subject/target that they may make a favorable recommendation to the department head and/or higher legal authority should cooperation be granted, but should clearly point out at all times that this is a merely a recommendation and does not have to be followed. It is more advisable, when asked by a subject/target or even a witness if favorable treatment can be provided, for the investigator to merely state that he or she will report all of the facts gathered during the investigation, including cooperation, to his or her superiors to take into consideration.

- G. Although there may be occasions where it is desirable to record an interview electronically, great caution and care must be taken when doing so during an investigation. There are several reasons for this. First, electronic recordings are not conclusive evidence of what occurred during an interview. Voice tone and inflection as well as individual comments can be misconstrued and interpreted differently by different people. Furthermore, many individuals interviewed will refuse to have their interview recorded or will be very inhibited as to what they tell the investigator when a recording is in place. Finally, federal, state and some local laws may restrict the use of electronic recordings. It is the best practice and procedure for an investigator to not electronically record interviews but to conduct themselves on every occasion as if their conversation was being recorded as it often times is especially by subjects/targets of an investigation. This is one reason why interviews of subjects/targets should not be taken over the phone and conducted in person, preferably at the offices of the investigator.
- H. The investigator must always remember that they control the interview and not the person being interviewed. Investigators should always be polite and courteous when conducting interviews and should be respectful of the person's time who is being interviewed. While it is necessary and often preferable to engage in small talk to establish rapport with the witness, investigators should keep such talk to a minimum. Furthermore, investigators should always remember their job in conducting an interview is to gather information and not give out information. Inadvertent or purposeful disclosure of information gathered during an investigation which is not necessary to be disclosed can result in complications for the investigator and his agency. In fact, there may be legal prohibitions against the disclosure of such information and frequently subjects/targets of investigations will make allegations regarding impropriety on the part of the investigator by accusing the investigator of spreading lies or slandering

the reputation of the subject/target or entity being investigated. To avoid these types of situations, the investigator should always focus on gathering information and disclosing only that information which is necessary to conduct the investigation. This type of conduct will withstand any allegations of impropriety raised by subjects/targets.

Preparation of the Interview Form

This Department/Agency uses a standard form to record the results of any interviews conducted during an investigation. The purpose of using a standard form is to provide an accurate and complete record of all evidence developed during an investigation. The form, attached as Exhibit 1, is very simple and should be filled in using paragraph form adhering to the rules of basic English and limited to one investigative act (one search, one interview, etc). It should consist of the following sections:

1. A Preamble. The preamble informs the reader of the background and nature of the investigation.
2. The Body. The body sets forth the results of the investigation while adhering to the following:
 - a. The Date.
 - b. Using all capital letters when writing names of persons and businesses.
 - c. Using third person, past tense, and complete sentences (concise ones are best).
 - d. Avoid phrases such as, "he stated" and "he advised". The preamble should preclude the need for these types of phrases.
 - e. Do not use slang, jargon, or abbreviations; avoid using "subject" or "target".
 - f. Stick to the relevant facts. Record what you heard, saw, did, or what your interviewee heard, saw, did. Omit opinions.
 - g. Arrange in a logical (usually chronological) order.
 - h. For second and subsequent interview pages, use an additional white sheet of paper which should be clearly marked as an attachment to the original interview form.
3. Descriptive data of relevant individuals. The investigator should obtain from each person being interviewed their full name, place of employment, and phone numbers where they can be reached. Physical descriptive data is usually not necessary with regards to witness. The investigator, however, should not overlook the fact that often physical descriptive data of a subject/target of an investigation is necessary. This is best

- accomplished by providing a photograph of the subject/target to the witness if physical identification is necessary. If a photograph is not available, the investigator should be careful to not pin the witness down to an exact physical description as the physical appearance of the subject/target may in fact be different or may have changed since their contact with the witness. Any discrepancies in the physical description may be exploited later by the subject/target and/or their attorney.
4. The blanks at the bottom of the interview form should be filled in by the investigator.

Sample Subject Interview

ALABAMA DEPARTMENT OF INSURANCE

John T. Crook, born October 15, 1937, social security number 027-68-9235, was interviewed at his place of business, The Crook Insurance Agency, 123 Main Street, Montgomery, Alabama. Crook resides at 815 Elm Street, Montgomery, Alabama. His telephone number is 334-269-3550. After being advised of the identity of the investigator and the nature of the interview, Crook provided the following information:

Crook has been in the insurance business for almost twenty years. He worked for a national insurer as an adjuster for many years before becoming an agent. He has been an independent agent in Montgomery, Alabama for almost ten years. He has two employees and some summer part time help. He is aware that there have been some complaints by customers alleging that he has charged fees for placing insurance and that in some cases he has not placed insurance with the insurer that he told the policyholder he was going to place the insurance with for them.

Crook was asked to produce the files of John Doe, Mary Doe, and Fred Doe. When questioned, Crook stated affirmatively that he had in fact taken money from these three individuals and had done his best to secure insurance for them. To the best of his knowledge insurance coverage was secured through Unlimited Risk Insurance Company. Crook has had a relationship with Unlimited Risk Insurance Company for many years.

John Doe, Mary Doe, and Fred Doe each paid by check and those checks were deposited into Crook's business account. Crook then wrote checks to Unlimited Risk Insurance Company to pay for their premium. Crook does know that some of his checks have been returned for insufficient funds at his bank but was not aware that his check for insurance on John Doe, Mary Doe, and Fred Doe had in fact been returned for insufficient funds. Crook was not aware that Unlimited Risk Insurance Company had no record of policies being issued for John Doe, Mary Doe, and Fred Doe. Nor did the company have any record of any application being submitted on their behalf.

Investigation on John T. Crook at Montgomery, Alabama
File Number P-2003-12345JD Date of Interview August 5, 2003
By Investigator George Goodguy and Fred Fearless

Continuation of Interview of John T. Crook, On August 1, 2003, Page 2

Crook was asked about the power being cut off in his building last week and he stated it was a mistake by the Power Company, that he had paid his bill on time, and that he was not undergoing any financial difficulty. Crook blamed the insufficient checks on a bank error and said he was doing his best to maintain his business and service his customers. Crook agreed to provide the department's investigators with all of his policyholder records and copies of his bank statements. Crook asked the investigator as to whether or not he could surrender his property and casualty insurance license but maintain a life insurance license as being a life agent he would not be in receipt of policyholder funds. Crook was advised this decision was not up to the investigator and that Crook would be notified if the department was going to take any action against his licenses.

This document contains neither recommendations nor conclusions of the Alabama Insurance Department. It is the property of the Alabama Insurance Department and is loaned to your agency; it and its contents are not to be distributed outside your agency.

Sample Custodian of Records Interview

ALABAMA DEPARTMENT OF INSURANCE

Paul Papershuffler was interviewed at his place of employment, the National Bank of Montgomery, 50 Commerce Street, Montgomery, Alabama. His telephone number is 334-241-2140. After being advised of the identity of the investigator and the nature of the interview, he was served with an administrative subpoena requiring production of any and all bank records pertaining to the Crook Insurance Agency and John T. Crook, Inc. for the period of June 1, 1999 to the present.

Papershuffler, after reviewing the subpoena, indicated he would have no problem obtaining the records and would produce them at the offices of the Insurance Commissioner as ordered at the time and date indicated.

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Investigation on John T. Crook at Montgomery, Alabama

File Number P-2003-12345JD Date of Interview August 7, 2003

By Investigator George Goodguy

Sample Interview of Cooperative Witness

ALABAMA DEPARTMENT OF INSURANCE

Mati Hari, who resides at 1001 Richmond Drive, Montgomery, Alabama, 36117, telephone number 334-987-6543 was interviewed at her place of employment, The Rightway Insurance Agency, 100 Oak Street, Montgomery, Alabama, 36104. After being advised of the identity of the investigator and the nature of the interview, she provided the following information:

Hari was employed by John T. Crook for eighteen months. She worked as a receptionist and dealt with customers both in person and over the telephone. She also attempted to maintain Crook's financial and business records for him. Crook was not a good record keeper and did not come into the office until late in the morning and left early in the afternoon. She had great difficulty in getting him to pay attention to his work. Crook received many telephone calls from individuals who appeared to be bill collectors and Hari noticed numerous envelopes from the bank in the everyday mail which appeared to be insufficient check notices.

Hari brought to Crook's attention six months into her employment, which lasted from 2000 to 2001 that many customers were complaining about the fact that they had not gotten documents indicating that they had insurance and that on a couple of occasions she received phone calls from individuals who stated that they had been told they did not have coverage with Unlimited Risk Insurance Company as represented by Mr. Crook. Crook told her basically to mind her own business and that he would take care of the matter.

Crook got a divorce in 1998 and she suspected that he actually lived at the office by sleeping on a cot during the night. She did not think that Crook was intentionally a dishonest person but that he had great difficulty in his personal life and this may have affected his ability to run the insurance agency. Crook fired her due to her questioning of whether or not insureds had insurance coverage and what the status of their payments and accounts were. Hari has worked at the Rightway Insurance Company since leaving Mr. Crook's employment.

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Investigation on John T. Crook at Montgomery, Alabama

File Number P-2003-12345JD Date of Interview August 15, 2003

By Investigator Fred Fearless

Sample Victim Interview Form

ALABAMA DEPARTMENT OF INSURANCE

John Doe, born June 24, 1940, social security number 213-86-5329, was interviewed at his place of employment, Kraft Food Company, 3904 Norman Bridge Road, Montgomery, Alabama. Doe resides at 3506 Princeton Street, Montgomery, Alabama and his telephone number is 334-264-1305. After being advised of the identity of the investigator and the nature of the interview, Doe provided the following information:

In August of 2000, Doe began looking for a new insurance company after his rates were increased by Big Guy Insurance Company. His secretary recommended Mr. John Crook and the Crook Insurance Agency as he had once been her neighbor and she had insurance with him in the past. Doe visited Crook sometime in August of 2000 at his office and got quotes from him on both of his vehicles as well as his residence. Crook called him a few days later and informed him he could get Doe insurance on the vehicles and his residence with Unlimited Risk Insurance Company for around \$150.00 per month. This was much less than Doe was currently paying to Big Guy Insurance Company and the very next day Doe delivered a check to Crook and signed some forms.

Doe never received a copy of a policy and contacted Crook's office sometime around Christmas of 2000 inquiring about the same. He spoke briefly with Crook who advised him that he did have insurance with Unlimited Risk and a few days later he received what appeared to be a computer printout and a policy table in the mail from Crook Insurance Agency.

In June of 2001 Doe's son, Johnald, ran into the back of a van on Interstate 85. The next day after the accident, Doe notified Crook Insurance Agency who instructed him to contact Unlimited Risk Insurance Company directly. Doe contacted Unlimited Risk Insurance Company and they informed him they had no record of Doe having any insurance with them for either his vehicle or his residence. Doe contacted John Crook the next afternoon and was informed by Crook that he, Crook, had sent in the funds for the insurance and had received proof of the same and that Unlimited Risk had once again made another mistake with regards to a policyholder and that he, Crook, would straighten the matter out.

Investigation on John T. Crook at Montgomery, Alabama
File Number P-2003-12345JD Date of Interview August 27, 2003
By Investigator George Goodguy

Continuation of Interview of John Doe, On August 27, 2003, Page 2

Doe contacted Unlimited Risk Insurance Company who has repeatedly denied his claim as he had no insurance in effect. Doe has turned this matter over to a local attorney as Doe has paid for the damage caused by his son's wreck out of his pocket. Doe has not had any contact with Crook for the last year and understands that he has gone through some serious difficulties and may have in fact been evicted from his office and/or had the power cut off at various times. Doe provided this investigator with a copy of his cancelled check as well as correspondence that he has sent and received in this matter.

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Sample Arrest Interview

ALABAMA DEPARTMENT OF INSURANCE

Pursuant to an authorized arrest warrant signed by the Honorable Lynn Clardy Bright, District Judge for the County of Montgomery, Alabama, Investigator George Goodguy of the Alabama Department of Insurance accompanied Investigators Gary Gungho and Tom Tough of the Alabama Bureau of Investigation to the offices of the Crook Insurance Agency in Montgomery, Alabama. After identifying themselves the investigators took John T. Crook into custody without incident. He was transported to the Montgomery County Detention Facility where he was fingerprinted and photographed.

This document contains neither the recommendations nor conclusions of the Alabama Insurance Department. It is the property of the Alabama Insurance Department and is loaned to your agency; it and its contents are not to be distributed outside your agency.

Investigation on John T. Crook at Montgomery, Alabama
File Number P-2003-12345JD Date Interviewed September 1, 2003
By Investigator George Goodguy

Procedures for Closing a Market Conduct Investigation

At the conclusion of an investigation, after evaluation and submission of all case related documentation, evidence, etc., a case may be closed for any of the following reasons:

- a. The allegations are unfounded.
- b. All investigative efforts have been pursued to their logical conclusion without proving or disproving the allegations.
- c. All investigative efforts have been completed, subjects have been administratively, civilly, or criminally charged and all aspects of the case have been resolved.
- d. All investigative activity has been completed, a complaint and/or warrant has been issued and all efforts to locate the subject(s) have been expended.
- e. The case is exceptionally cleared. (i.e., subject dies, subject is arrested in another jurisdiction, entity goes out of business, etc.).
- f. Assistance is no longer required.
- g. Other.

Procedures for the Completion of Case Summary Reports

The case summary report is designed to provide a brief overview of the specific information and documentation obtained during the investigation. These reports assist supervisors as well as departmental counsel in expeditiously identifying the pertinent facts of a case so that an informative decision can be made regarding the final disposition of the case.

The case summary report should contain the following information:

1. The identity of the person or entity to be cited in the report. This section contains the name, business address, business phone, residence address and home phone for the individual or entity to be cited.
2. Current Licenses – The investigator should indicate all license powers of the person or entity to be cited.
3. Allegations – The investigator should provide a brief narrative description of the allegations, including the number of violations.
4. Summary of the Case – The investigator should provide a brief and concise representation of the information obtained during the investigation, including what the respondent did, how the violation occurred, how often the violation occurred, what further action needs to be taken, an identification of consumers who are due restitution, and a description of any special circumstances or mitigating or aggravating factors.

Guidelines For Conducting A Photographic Lineup

Although it is not the standard practice and procedure of many regulatory agencies to maintain photographs of their licensee's, there are occasions where it is possible to obtain such a photograph. Investigators should always attempt to obtain a photograph of an individual when that individual is the subject/target of their investigation. Even though a regulatory licensing agency may not have or require photographs of its licensee's, there are other regulatory agencies which may possess photographs and may be able to share them with the investigator. The first and most obvious is the Motor Vehicle Licensing Unit of the state in which the subject/target resides. Also, there may be other regulatory agencies which have photographs such as a State Securities Licensing Agency.

If a photographic lineup is necessary and photographs can be obtained, the following guidelines should be closely adhered to before using this technique:

- a. If at all possible use an original photograph. Good copies are adequate.
- b. If at all possible obtain at least 5 additional photos, same size, and most important of all, the individuals in the additional photos must somewhat resemble the subject, with all photos being black and white, or all colored. Under no circumstances should color photos be mixed with black and white photos.
- c. All photos must be original or they all must be copies.
- d. Once the photos needed for the lineup are available, they should be identified on the back with a letter. They should not be identified in any other manner that would cause the person viewing the lineup to select the subject's photo because of some special mark or characteristic.
- e. The investigator must never show any facial or body movements that would indicate that the individual viewing the photographic lineup did or did not select the subject/target of the investigation. In the event that the subject/target was not identified in the photo lineup by the witness, the investigator must never point out or identify in any manner whatsoever that the witness failed to select the correct photo.

Form of Investigative Report

A. General

1. Objectivity

An investigative report should reflect, in its wording, the same objectivity as was used in the fact finding and information gathering process of the investigation. The report must be a factual recording of the findings. Use of words such as "some, many, several and few" must be minimized. The use of superlatives should be avoided in writing the report. The most important questions that must be answered in an investigative report are: who, what, when, where, why, and how.

2. Privacy

The investigator should be aware that although investigative reports are privileged and confidential, they may in fact be used in administrative, civil and possibly criminal proceedings. Accordingly, steps should be taken, when possible, to protect the confidentiality of individual policyholders, claimants, and consumers.

3. Use of Jargon

The needs of various individuals who will review and utilize the investigative report should be kept in mind during the preparation of the report. Whenever possible, the use of insurance industry jargon within the report should either be avoided or explained. The report should be worded so that the average person can easily understand what is being reported.

4. Writing Style

The writing style of an investigative report should tell the story of the investigation. The story is simple and direct and will always be in chronological order and factual.

5. Main Objectives of an Investigated Report

An investigated report should inform the reader of the investigator's findings, including information and the source of information. The report should facilitate the understanding of the investigation and foreshadow the uncompleted portion of the investigation. The report should also fulfill the duties of the assignment.

B. Content of the Report

1. Title Page

- a. Type of Investigation.
- b. Subject and Address of Investigation. If investigation location is different, include that address also.
- c. Identifying Numbers (i.e., agent number, social security number, etc.).
- d. Dates of Investigation.
- e. Period covered by Investigation.
- f. List of jurisdictions and agencies participating.

2. Table of Contents

3. Case Summary Page (see Exhibit A)

The case summary report is designed to provide a brief overview of the specific information and documentation obtained during the investigation. These reports assist supervisors as well as departmental counsel in expeditiously identifying the pertinent facts of a case so that an informative decision can be made regarding the final disposition of the case.

The case summary page should contain the following:

- a. Identity of person or entity - including any available addresses or phone numbers
- b. Current Licenses – all license powers of the person or entity to be cited.
- c. Allegations – brief narrative description of the allegations, including number of violations
- d. Summary of the case – brief, concise information obtained during investigation including:
 - What the respondent did
 - How the violation occurred
 - How often violation occurred
 - What further action needs to be taken
 - Identifications of consumers due restitution
 - Description of special circumstances, mitigating or aggravating factors

4. Detail Report (the purpose of this report is securing a prosecution or conviction)

a. Scope of the Investigation

1. Cite specific statutory authority for the investigation
2. Briefly outline the investigation purpose

b. Body of the Report

1. Detail of investigation
2. summary of interviews
3. summary of documentary evidence

c. Appendices

1. Copies of Interviews
2. Copies of documentary evidence
3. Copies of sworn statements and affidavits

Case Summary Page

Identity

Current Licenses

Allegations

Summary
